



2005 ASSEMBLY BILL 641

August 30, 2005 - Introduced by Representatives WIECKERT, JENSEN, NISCHKE, McCORMICK, MUSSER, VOS, VAN ROY, TOWNSEND, BALLWEG, NASS, LOTHIAN, JESKEWITZ, HINES, OTT and VRAKAS, cosponsored by Senator A. LASEE. Referred to Committee on Colleges and Universities.

1 **AN ACT** *to renumber* 231.01 (4m) (a) and (b); *to amend* 71.05 (6) (a) 15., 71.21
2 (4), 71.26 (2) (a), 71.34 (1) (g), 77.92 (4), 231.01 (4m) (intro.) and 231.01 (5w); and
3 **to create** 71.07 (6f), 71.10 (4) (cf), 71.28 (6e), 71.30 (3) (dm), 71.47 (6e), 71.49
4 (1) (dm) and 231.01 (4m) (b) of the statutes; **relating to:** creating a
5 nonrefundable individual and corporate income tax credit based on interest
6 received from bonds or notes issued by the Wisconsin Health and Educational
7 Facilities Authority for purposes related to an educational facility and
8 authorizing the Wisconsin Health and Educational Facilities Authority to issue
9 bonds to finance a project undertaken by the Wisconsin Association of
10 Independent Colleges and Universities related to an educational facility.

Analysis by the Legislative Reference Bureau

Under current law, the Wisconsin Health and Educational Facilities Authority (WHEFA) may issue bonds to finance any project undertaken by an educational institution for an educational facility. This bill creates a nonrefundable individual income tax credit for the amount of interest income received by a claimant (an individual, a sole proprietor, a partner of a partnership, a member of a limited

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liability company, or a shareholder of a tax-option corporation), multiplied by the claimant's marginal tax rate, on bonds issued by WHEFA, on or after the effective date of the bill, to finance any project undertaken for an educational facility.

The bill also creates a nonrefundable corporate income and franchise tax credit, for 7.9 percent of the interest income received by corporations on bonds to which the individual income tax credit applies.

An educational institution is currently defined to mean a corporation, agency, or association that is authorized by state law to provide or operate an educational facility. The bill expands that definition to include the Wisconsin Association of Independent Colleges and Universities. An educational facility is currently defined to mean a private, nonprofit, regionally accredited, postsecondary educational institution. The bill expands that definition to include an institution, place, building, or other structure used by the Wisconsin Association of Independent Colleges and Universities solely for providing one or more supporting services to one or more educational institutions.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:

2 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
3 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), ~~and (5d)~~, and (6e)
4 and not passed through by a partnership, limited liability company, or tax-option
5 corporation that has added that amount to the partnership's, company's, or
6 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

7 **SECTION 2.** 71.07 (6f) of the statutes is created to read:

8 71.07 **(6f)** WHEFA INFORMATION TECHNOLOGY BOND TAX CREDIT. (a) *Definitions.*

9 In this subsection:

10 1. "Bond" means a bond or note issued by the Wisconsin Health and
11 Educational Facilities Authority under s. 231.03 (6) (c), on or after the effective date
12 of this subdivision [revisor inserts date], to finance any project undertaken for an
13 educational facility.

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1 2. "Claimant" means an individual, a sole proprietor, a partner, a member of
2 a limited liability company, or a shareholder of a tax-option corporation who owns
3 a bond and who files a claim under this subsection.

4 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
5 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
6 amount of those taxes, the interest received from a bond in the taxable year to which
7 the claim under this subsection relates, multiplied by the claimant's marginal tax
8 rate.

9 (c) *Limitations.* 1. No credit may be allowed under this subsection unless it
10 is claimed within the time period under s. 71.75 (2).

11 2. For a claimant who is an individual, who is a nonresident or part-year
12 resident of this state, and who is a single person or a married person filing a separate
13 return, multiply the credit for which the claimant is eligible under par. (b) by a
14 fraction the numerator of which is the individual's Wisconsin adjusted gross income
15 and the denominator of which is the individual's federal adjusted gross income. If
16 a claimant is married and files a joint return, and if the claimant or the claimant's
17 spouse, or both, are nonresidents or part-year residents of this state, multiply the
18 credit for which the claimant is eligible under par. (b) by a fraction the numerator of
19 which is the couple's joint Wisconsin adjusted gross income and the denominator of
20 which is the couple's joint federal adjusted gross income.

21 3. Partnerships, limited liability companies, and tax-option corporations may
22 not claim the credit under this subsection, but the eligibility for, and the amount of,
23 the credit are based on their receipt of interest under par. (b). A partnership, limited
24 liability company, or tax-option corporation shall compute the amount of credit that
25 each of its partners, members, or shareholders may claim and shall provide that

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1 information to each of them. Partners, members of limited liability companies, and
2 shareholders of tax-option corporations may claim the credit in proportion to their
3 ownership interest.

4 (d) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit
5 under that subsection, applies to the credit under this subsection.

6 **SECTION 3.** 71.10 (4) (cf) of the statutes is created to read:

7 71.10 (4) (cf) The Wisconsin Health and Educational Facilities Authority
8 information technology bond tax credit under s. 71.07 (6f).

9 **SECTION 4.** 71.21 (4) of the statutes is amended to read:

10 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
11 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), ~~and (5b)~~, and (6f) and passed
12 through to partners shall be added to the partnership's income.

13 **SECTION 5.** 71.26 (2) (a) of the statutes is amended to read:

14 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
15 the gross income as computed under the Internal Revenue Code as modified under
16 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
17 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
18 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
19 under this paragraph at the time that the taxpayer first claimed the credit plus the
20 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
21 (1ds), (1dx), (3g), (3n), (3t), ~~and (5b)~~, and (6e) and not passed through by a
22 partnership, limited liability company, or tax-option corporation that has added that
23 amount to the partnership's, limited liability company's, or tax-option corporation's
24 income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or
25 other disposition of assets the gain from which would be wholly exempt income, as

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1 defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and
2 minus deductions, as computed under the Internal Revenue Code as modified under
3 sub. (3), plus or minus, as appropriate, an amount equal to the difference between
4 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or
5 otherwise disposed of in a taxable transaction during the taxable year, except as
6 provided in par. (b) and s. 71.45 (2) and (5).

7 **SECTION 6.** 71.28 (6e) of the statutes is created to read:

8 **71.28 (6e) WHEFA INFORMATION TECHNOLOGY BOND TAX CREDIT.** (a) *Definitions.*

9 In this subsection:

10 1. "Bond" means a bond or note issued by the Wisconsin Health and
11 Educational Facilities Authority under s. 231.03 (6), on or after the effective date of
12 this subdivision [revisor inserts date], the proceeds from which are used by a
13 health facility, as defined in s. 231.01 (5), to fund the acquisition of information
14 technology hardware or software.

15 2. "Claimant" means a corporation that owns a bond and that files a claim
16 under this subsection.

17 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
18 claimant may claim as a credit against the tax imposed under s. 71.23, up to the
19 amount of those taxes, 7.9 percent of the interest received from a bond in the taxable
20 year to which the claim under this subsection relates.

21 (c) *Limitations.* 1. No credit may be allowed under this subsection unless it
22 is claimed within the time period under s. 71.75 (2).

23 2. Partnerships, limited liability companies, and tax-option corporations may
24 not claim the credit under this subsection, but the eligibility for, and the amount of,
25 the credit are based on their receipt of interest under par. (b). A partnership, limited

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1 liability company, or tax-option corporation shall compute the amount of credit that
2 each of its partners, members, or shareholders may claim and shall provide that
3 information to each of them. Partners, members of limited liability companies, and
4 shareholders of tax-option corporations may claim the credit in proportion to their
5 ownership interest.

6 3. Subsection (4) (e) and (f), to the extent that it applies to the credit under that
7 subsection, applies to the credit under this subsection.

8 (d) *Administration.* Subsection (4) (g), to the extent that it applies to the credit
9 under that subsection, applies to the credit under this subsection.

10 **SECTION 7.** 71.30 (3) (dm) of the statutes is created to read:

11 71.30 (3) (dm) The Wisconsin Health and Educational Facilities Authority
12 information technology bond credit under s. 71.28 (6e).

13 **SECTION 8.** 71.34 (1) (g) of the statutes is amended to read:

14 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
15 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
16 (3n), (3t), ~~and (5b)~~, and (6e) and passed through to shareholders.

17 **SECTION 9.** 71.47 (6e) of the statutes is created to read:

18 71.47 (6e) WHEFA INFORMATION TECHNOLOGY BOND TAX CREDIT. (a) *Definitions.*
19 In this subsection:

20 1. “Bond” means a bond or note issued by the Wisconsin Health and
21 Educational Facilities Authority under s. 231.03 (6), on or after the effective date of
22 this subdivision [revisor inserts date], the proceeds from which are used by a
23 health facility, as defined in s. 231.01 (5), to fund the acquisition of information
24 technology hardware or software.

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1 2. "Claimant" means a corporation that owns a bond and that files a claim
2 under this subsection.

3 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
4 claimant may claim as a credit against the tax imposed under s. 71.43, up to the
5 amount of those taxes, 7.9 percent of the interest received from a bond in the taxable
6 year to which the claim under this subsection relates.

7 (c) *Limitations.* 1. No credit may be allowed under this subsection unless it
8 is claimed within the time period under s. 71.75 (2).

9 2. Partnerships, limited liability companies, and tax-option corporations may
10 not claim the credit under this subsection, but the eligibility for, and the amount of,
11 the credit are based on their receipt of interest under par. (b). A partnership, limited
12 liability company, or tax-option corporation shall compute the amount of credit that
13 each of its partners, members, or shareholders may claim and shall provide that
14 information to each of them. Partners, members of limited liability companies, and
15 shareholders of tax-option corporations may claim the credit in proportion to their
16 ownership interest.

17 3. Section 71.28 (4) (e) and (f), to the extent that it applies to the credit under
18 that section, applies to the credit under this subsection.

19 (d) *Administration.* Section 71.28 (4) (g), to the extent that it applies to the
20 credit under that section, applies to the credit under this subsection.

21 **SECTION 10.** 71.49 (1) (dm) of the statutes is created to read:

22 71.49 (1) (dm) The Wisconsin Health and Educational Facilities Authority
23 information technology bond credit under s. 71.47 (6e).

24 **SECTION 11.** 77.92 (4) of the statutes is amended to read:

ASSEMBLY BILL 641**SECTION 11**

1 77.92 (4) “Net business income,” with respect to a partnership, means taxable
2 income as calculated under section 703 of the Internal Revenue Code; plus the items
3 of income and gain under section 702 of the Internal Revenue Code, including taxable
4 state and municipal bond interest and excluding nontaxable interest income or
5 dividend income from federal government obligations; minus the items of loss and
6 deduction under section 702 of the Internal Revenue Code, except items that are not
7 deductible under s. 71.21; plus guaranteed payments to partners under section 707
8 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
9 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), ~~and (5b), and (6f)~~; and
10 plus or minus, as appropriate, transitional adjustments, depreciation differences,
11 and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding
12 income, gain, loss, and deductions from farming. “Net business income,” with respect
13 to a natural person, estate, or trust, means profit from a trade or business for federal
14 income tax purposes and includes net income derived as an employee as defined in
15 section 3121 (d) (3) of the Internal Revenue Code.

16 **SECTION 12.** 231.01 (4m) (intro.) of the statutes is amended to read:

17 231.01 (4m) (intro.) “Educational facility” means ~~a~~ any of the following:

18 (a) A facility used for education by a private institution that is described in
19 section 501 (c) (3) of the Internal Revenue Code, ~~as defined in s. 71.22 (4), and~~ and that
20 is exempt from federal taxation under section 501 (a) of the Internal Revenue Code,
21 and that satisfies any of the following:

22 **SECTION 13.** 231.01 (4m) (a) and (b) of the statutes are renumbered 231.01 (4m)

23 (a) 1. and 2.

24 **SECTION 14.** 231.01 (4m) (b) of the statutes is created to read:

